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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,806	12/09/2003	Larry Schwartz	SALES 3.0-034 CIP CIP	2695
530	7590	05/04/2004	CIP	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER HURLEY, SHAUN R				
ART UNIT			PAPER NUMBER	
3765				

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,806

Applicant(s)

SCHWARTZ, LARRY

Examiner

Shaun R Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-14, 18-26, 30-38 and 42-44 is/are rejected.
- 7) ☒ Claim(s) 5-7, 15-17, 27-29 and 39-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/09/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-10, 18-20, 30-32, and 42-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to the above claims, it is unclear what Applicant is attempting to claim. In Applicant's specification, he teaches both extrusion formed polymers and elongated foamed polymers. As such, it is unclear what exactly Applicant is attempting to claim with the term "formed". Is this formed, as in extruded synthetics, or is this foamed, as in elongated foamed polymer?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 8-13, and 18-20, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Dodge et al (2343892).

Dodge teaches a method of making a composite twisted elongated yarn comprising providing a first elongated yarn of a formed polymer material having shape memory properties (Figure 1, detail 10), providing a second elongated yarn of a formed polymer material having

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shape memory properties (Figure 1, detail 10), heating said first and second yarns to a temperature below the softening temperature of the polymer material in the range of 100° - 200° F (Column 4, lines 43-48), twisting the first and second yarns together after heating to form a composite yarn having a twisted shape (Column 1, lines 29-41), and cooling composite yarn to ambient temperature (Column 4, lines 9-17), wherein the heating temperature sets the yarn twist without adhesion (Column 4, lines 50-54).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 21-26, 30-38, and 42-44, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (5845970) in view of Dodge.

Schwartz teaches a chair having a frame and woven portions formed from synthetic yarns woven either prior to or during attachment used in lieu of natural fibers so as to provide greater strength (Figures 20-32; Column 9, lines 4-13, lines 34-40). Dodge teaches a synthetic yarn as detailed above, which is greater in strength, water resistant, and immune to attack by micro-organisms (Column 1, lines 1-14). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize the rope of Dodge in the chair of Schwartz, so as to provide all the above mentioned properties which are highly desired in a wicker chair. The ordinarily skilled artisan would appreciate the advantages the yarn of Dodge teaches, and would

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understand how to use it in the chair of Schwartz, so as to provide strength, water resistance, and microorganism immunity above that of wicker.

7. Claims 4 and 14, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Dodge.

Dodge essentially teaches the invention as discussed above, but fails to specifically teach that the yarns are monofilament. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize monofilaments rather than multifilament. Dodge teaches using mono versus multi in relation to different deniers (Column 5, lines 57-62). As such, the ordinarily skilled artisan would understand that by using greater deniers, he could further reduce the filaments to mono, allowing for less processing, something the ordinarily skilled artisan would understand and appreciate.

Allowable Subject Matter

8. Claims 5-7, 15-17, 27-29, and 39-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carranza (4166357), Cavedon et al (5794427), Murakami et al (6074751), Scheunemann (2002/0144497), and Schwartz (2003/0101709) all essentially teach what is well known in the art.


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 6:30am - 3:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRH
27 April 2004


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700